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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/458,319

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AIDAN JAMES SMYTH

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EXAMINER

RAMAN, USHA

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

07/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/458,319

Applicant(s)

SMYTH ET AL.

Examiner

Usha Raman

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see attached 'Response to Arguments'.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



**CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600**

Response to Arguments

Applicant's arguments filed June 27th, 2007 have been fully considered but they are not persuasive.

Applicant alleges (see Remarks, page 8) that, "an index table is still *required* in combination with the random access points". The examiner respectfully disagrees because the random access points does not *require* the index table. Rather, the index table requires the random access points for correlating a particular playback position of a main video stream with a plurality of trick play streams. This enables switching from a main video stream to the trick play stream, such that the point of entry (i.e. play time) of the trick play stream corresponds to the point of exit of the main video stream. For example, if a video comprised scenes A, B, C, D, E in sequential order, the user decides to fast forward content as scene B is being played back, the index table enables the entry into the trick play stream at scene B, so that the video is forwarded from where user last watched the video in the normal play mode onwards and not from a some other point in play time. If the user decides to resume playback at a normal play time, when the fast forward stream is in scene D, then the index table is looked up again to find the corresponding location (i.e. scene D) in the main video stream, so that playback at normal can resume from the point where user resumed the play. The index table therefore correlates a temporal point in a video among the plurality of normal and trick play streams. However, the random access points are the points in the video where entry and exits occur and therefore read on the said splicing points. Specifically, DeMoney states that, *intra frames* (or I-frames) provide entry points into the file for

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random access (see column 2, lines 33-35). Furthermore, as Day also teaches the streaming MPEG compressed video content, wherein MPEG content comprises I-Frames, the modified system therefore comprises the random access points (splicing points) for facilitating inter-asset transition as well. Therefore applicant's arguments (see Remarks, page 8) stating that, "the use of splicing facilitates inter asset transition" and that, "In contrast, DeMoney works with a single video stream..." are found unpersuasive. Furthermore, Katinsky teaches the step of play list modification commands that enable a user to skip forward and backward to play another content stream. The random entry points of the modified system provide a key role for the implementation of this feature, as it lets user to skip to another content while playback on a first content is still on going. For example, if a user is playing content 4 minutes into video 'A' that comprises a total of 10 minutes of play time, and then decides to skip forward to video 'B' in the play list, the user does not have to wait till 10 minutes of play time of content 'A' to elapse. Instead, the playback of 'A' around 4 minutes playback can be exited, and playback of 'B' be started. The existence of the skip forward and backward feature therefore inherently requires at least one splicing point that allows a the system to exit playback of a first content to jump to another content. Therefore applicants arguments (see Remarks, page 4) stating that, "Katinsky also fails to teach or suggest the limitation of each content stream comprising a plurality of splicing entry and exit points dispersed therein to enable transitioning between the plurality of content streams" is also found unpersuasive.

Applicant also argues (see Remarks, page 3) that Day in fact teaches how to provide VCR functionalities stating that, "control server provides a plurality of multimedia data stream control functions including functions of 'play'...and 'seek'" and then states (see Arguments, page 4) that, "these plurality of multi-media file data streams, including the separate "play"...."seek" video streams, are simply concatenated one after another to provide seamless video to a viewer. While examiner concedes that Day teaches VCR functionalities, Day does not teach a whether this is accomplished by changing play rate of one content stream to provide the VCR functionality or whether it is accomplished by switching between trick play streams of different play rates. DeMoney specifically discloses maintaining separate trick play streams and switching between the trick play streams to provide the VCR functionalities. Furthermore, applicant's allegations stating that Day teaches concatenating the separate rewind, play, forward and seek video streams one after another to provide seamless video to a viewer is simply improper for the simple reasons that Day does not provide the plurality of trick play streams, and that Day teaches concatenating the plurality of content media (and not trick play *associated* with the plurality of content media) from a play list to provide seamless video to a viewer. Therefore, while Day teaches combining video streams, DeMoney does not teach the combining of plurality of multiple video streams, but instead teaches switching between the plurality of trick play streams of a *particular* video stream being played back.

For the reasons stated above, applicant's arguments stating that the references cannot be meaningfully combined is found unpersuasive and the rejection is maintained accordingly.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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